

## PATENT COOPERATION TREATY

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## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 70346	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/US04/39929	International filing date (day/month/year) 30 November 2004 (30.11.2004)	Priority date (day/month/year) 05 December 2003 (05.12.2003)
International Patent Classification (IPC) or national classification and IPC IPC(8): A01N 25/04, 35/05; A01P 3/00, 5/00, 7/02, 7/04, 13/00 and US Cl.: 504/348, 362		
Applicant SYNGENTA PARTICIPATIONS AG		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of ___ sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <li>I <input checked="" type="checkbox"/> Basis of the report</li> <li>II <input type="checkbox"/> Priority</li> <li>III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability</li> <li>IV <input type="checkbox"/> Lack of unity of invention</li> <li>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement</li> <li>VI <input type="checkbox"/> Certain documents cited</li> <li>VII <input type="checkbox"/> Certain defects in the international application</li> <li>VIII <input type="checkbox"/> Certain observations on the international application</li> </ul>		

Date of submission of the demand 28 June 2005 (28.06.2005)	Date of completion of this report 03 February 2006 (03.02.2006)
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPBA/ US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Authorized officer S. Mark Clardy Telephone No. 571-272-1600

Form PCT/IPEA/409 (cover sheet)(July 1998)

**I. Basis of the report**

## 1. With regard to the elements of the international application:\*

the international application as originally filed.  
 the description:

pages 1-22 as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.

the claims:

pages 23-27, as originally filed  
 pages NONE, as amended (together with any statement) under Article 19  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.

the drawings:

pages NONE, as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.

the sequence listing part of the description:

pages NONE, as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).  
 the language of publication of the international application (under Rule 48.3(b)).  
 the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing

contained in the international application in printed form.  
 filed together with the international application in computer readable form.  
 furnished subsequently to this Authority in written form.  
 furnished subsequently to this Authority in computer readable form.  
 The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
 The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4.  The amendments have resulted in the cancellation of:

the description, pages NONE  
 the claims, Nos. NONE  
 the drawings, sheets/fig NONE

5.  This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).  
 \*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/US04/39929**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>1-32</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-32</u>	NO
Industrial Applicability (IA)	Claims <u>1-32</u>	YES
	Claims <u>NONE</u>	NO

**2. CITATIONS AND EXPLANATIONS**

Claims 1-32 lack an inventive step under PCT Article 33(3) as being obvious over the combined teachings of Bratz et al (US 2003/0148887) and Hacker et al (US 2003/0186816).

Bratz et al teach methods for making solvent free suspensions including suspension concentrates (abstract, para 6-7); the active agent may be mesotrione (para 98).

Hacker et al teach herbicidal compositions comprising sulfonylureas in combination with additional herbicidal agents including mesotrione (abstract and para 17) in various conventional formulations including suspension concentrates (para 146).

Thus it would have been prima facie obvious to the ordinary artisan at the time the invention was made to have formulated mesotrione in a suspension concentrate because the prior art teaches that this type of formulation was known in the art, and that mesotrione was known to be useful in such compositions.

Claims 1-32 meet the criteria set out in PCT Article 33(4), and thus possess industrial applicability because the subject matter claimed can be made or used in industry.

Claims 1-32 meet the criteria set out in PCT Article 33(2) because the prior art does not teach or fairly suggest the claimed invention.

----- NEW CITATIONS -----